

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DEBBY BARRETT**, on March 12, 2003 at 9 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Debby Barrett, Chairman (R)
Rep. Dee Brown, Vice Chairman (R)
Rep. Larry Jent, Vice Chairman (D)
Rep. Norman Ballantyne (D)
Rep. Arlene Becker (D)
Rep. Sue Dickenson (D)
Rep. Carol Gibson (D)
Rep. Daniel S. Hurwitz (R)
Rep. Hal Jacobson (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Alan Olson (R)
Rep. Bernie Olson (R)
Rep. Don Roberts (R)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)
Rep. Pat Wagman (R)
Rep. Jonathan Windy Boy (D)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Joan Reiman, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 85, SB 110, SB 117, 3/6/2003
Executive Action: SB 8 TABLED 16-3; SB's 66, 85, 117 - BE
CONCURRED IN, CONSENT CALENDAR, Vote: 19-0

HEARING ON SB 85

Sponsor: SEN. VICKI COCCHIARELLA, SD 32

Opening Statement by Sponsor:

SEN. COCCHIARELLA said this bill requires the Legislative Council to review proposed legislation for agencies or entities that are not assigned to an interim committee or the Environmental Quality Council; and amending 5-11-105, MCA. Interim and standing committees were aligned three sessions ago. The meat of the bill is Page 1, Line 26.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. BROWN asked how this dovetails with her bill for Council to look at the number of bills during the interim. This bill is totally separate from hers, but they would work together.

CHAIRMAN BARRETT said she is on the interim committee that has oversight of three agencies, but when the bills did not get approved by the oversight committee, the agency went ahead with the bill request or bill draft anyway. Sponsor said that's a valid point.

Closing by Sponsor: SEN. COCCHIARELLA asked for a Representative to carry this, and REP. BROWN volunteered.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 7.3}

HEARING ON SB 110

Sponsor: SEN. KEN TOOLE, SD 27

Opening Statement by Sponsor:

SEN. TOOLE said this bill was drafted at the request of the State Administration and Veterans' Affairs Interim Committee.

It allows state and local elected officials who were drawing a retirement benefit under the Public Employees' Retirement System (PERS) at the time of their election to a position covered by the retirement system to decide not to return to active membership in

the system and to continue to receive their retirement benefits; and amending sections 19-3-412 and 19-3-1106, MCA. Amendment 011002.ash was provided.

EXHIBIT (sth52a01)

{Tape: 1; Side: A; Approx. Time Counter: 7.3 - 10.2}

Proponents' Testimony:

REP. GARY MATTHEWS, HD 4, Miles City, said currently when officials exceed the 960 hour limit, they lose their retirement benefits. He worked with PERS on the amendment. Members would have a 90-day window to exempt themselves out of the system.

Gary Pace, County Superintendent of Schools, provided written testimony.

EXHIBIT (sth52a02)

David Senn, Executive Director, TRS, said the amendments make sense. Members can continue to receive retirement.

Darrel Rudd, Executive Director, School Administrators of Montana, testified that the amendment turned him from an opponent to a proponent.

{Tape: 1; Side: A; Approx. Time Counter: 10.2 - 18.5}

Opponents' Testimony: None

Informational Testimony:

Mr. Mike O'Connor, Executive Director, PERS, said this bill would affect a limited number of people.

Questions from Committee Members and Responses:

Members questioned how this would work. **Mr. O'Connor** explained that officials can opt to be active in PERS or remain receiving retirement benefits. All legislators have the option to elect PERS within 180 days. Someone could also be receiving TRS benefits; they would not conflict, since they are separate systems.

{Tape: 1; Side: A; Approx. Time Counter: 18.5 - 23}

Closing by Sponsor:

SEN. TOOLE said that retired federal, corporate, or out-of-state workers could continue receiving benefits, so this evens things out for Montana state workers. He asked for a House sponsor, and **REP. WINDY BOY** agreed to carry this bill on the floor.

HEARING ON SB 117**Sponsor:** SEN. JOHN COBB, SD 25**Opening Statement by Sponsor:**

SEN. COBB said the main change is Page 2, Line 17, the definition of "rule." It does not include items of "only internal management of agencies." An example is computer-use policies or risk management policies. The bill does not limit the public's right to know; the information is all there on the web page. It just prevents having to publish policies as rules if the public is not affected. To publish rules takes months, then they have to be changed again.

{Tape: 1; Side: A; Approx. Time Counter: 23 - 28}

Proponents' Testimony:

Dal Smiley, Chief Legal Counsel, Department of Administration, supports the bill. He gave an exhibit.

EXHIBIT(sth52a03)

Janice Doggett, Chief Legal Counsel, Secretary of State, said it costs \$40 per page to publish in the Administrative Rules of Montana (ARM) so this makes sense.

{Tape: 1; Side: A; Approx. Time Counter: 28 - 32}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. B. OLSON asked Mr. Smiley what effect this would have. **Mr. Smiley** said agencies would start culling rules without incurring costs. Very few agencies deal with other agencies; this will not affect most agencies. The **Sponsor** said it will not get rid of rules, just keep them from being made. It is preemptive. Private rights is a keyword.

CHAIRMAN BARRETT said that a few sessions back, the FWP pay plan would have raised salaries. It affected the general fund but there were no rules on that. Sponsor said there are gray areas. He deferred to **Lois Menzies, Executive Director of Legislative Services,** who said her division authorized Fish, Wildlife and Parks (FWP) to implement an alternative pay plan. They used the State Special Revenue Fund to pay. **CHAIRMAN BARRETT** asked if that was the only agency who used money earmarked for other use.

Ms. Menzies said there were grade increases for MDT engineers and for DPHHS nurses. Often the money used is Federal or State Special Authority under Title II. She said the State Fund was exempt from the State pay plan and laws governing other agencies. They can adopt their own pay schedule.

{Tape: 1; Side: A; Approx. Time Counter: 32 - 44.4}

Closing by Sponsor:

The sponsor asked for a House sponsor and REP. YOUNKIN agreed.

EXECUTIVE ACTION ON SB 117

Motion/Vote: REP. BROWN moved that SB 117 BE CONCURRED IN. Motion carried 19-0. Proxy votes were cast by REPS. A. OLSON and LENHART.

Motion/Vote: REP. YOUNKIN moved that SB 117 MOVE TO THE CONSENT CALENDAR. Motion carried 19-0. Proxy votes were cast by REPS. A. OLSON and LENHART.

{Tape: 1; Side: A; Approx. Time Counter: 44.4 - 48}

EXECUTIVE ACTION ON SB 110

Motion: REP. WAGMAN moved that SB 110 BE CONCURRED IN. Motion was withdrawn.

EXECUTIVE ACTION ON SB 85

Motion/Vote: REP. WAGMAN moved that SB 85 BE CONCURRED IN. Motion carried 19-0. Proxy votes were cast by REPS. A. OLSON and LENHART.

Motion/Vote: REP. BROWN moved that SB 117 MOVE TO THE CONSENT CALENDAR. Motion carried 19-0. Proxy votes were cast by REPS. A. OLSON and LENHART.

EXECUTIVE ACTION ON SB 8

Motion: REP. WAGMAN moved SB 8 BE CONCURRED IN.

Discussion: REP. BROWN said this legislation would not eliminate any legislator's position; she will vote no. REP. BECKER agreed and added it would be confusing if it ever goes to voters. REP. JENT agreed and added that it is not recommended to amend the constitution.

Vote: Motion failed 3-16. Voting aye were REPS. SCHRUMPF, WAGMAN and YOUNKIN. Proxy votes were cast by REPS. A. OLSON, LENHART, and WINDY BOY. REP. SCHRUMPF originally voted no, then changed her vote with no objection.

Motion/Vote: REP. YOUNKIN moved that SB 8 BE TABLED AND THE VOTE REVERSED. Motion carried 19-0. Vote to TABLE was thus 16-3 with REPS. SCHRUMPF, WAGMAN, and YOUNKIN voting no. Proxy votes were cast by REPS. A. OLSON, LENHART and WINDY BOY.

{Tape: 1; Side: A; Approx. Time Counter: 51 - 54}

EXECUTIVE ACTION ON SB 54

Motion: REP. JACOBSON moved that SB 54 BE CONCURRED IN.

Discussion: REP. BROWN said SEN. BOHLINGER wanted the Commissioner of Political Practices to talk with the Governor's office. She suggested waiting to hear back. **CHAIRMAN BARRETT** agreed. REP. BROWN said it would be by the end of the week.

EXECUTIVE ACTION ON SB 66

Motion: REP. WAGMAN moved that SB 66 BE CONCURRED IN.

Discussion:

REP. BROWN said this would allow REP. JENT to buy military time. REP. B. OLSON said no one opposed this and Ms. Symons said it works actuarially. **CHAIRMAN BARRETT** asked if there was a fiscal note; she missed the bill. REP. LEHMAN recapped for her.

Vote: Motion carried 19-0. Proxy votes were cast by REPS. A. OLSON, WINDY BOY and LENHART.

Motion/Vote: REP. SMITH MOVED SB 66 TO THE CONSENT CALENDAR. Motion carried 19-0. Proxy votes were cast by REPS. A. OLSON, WINDY BOY and LENHART.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 3.3}

EXECUTIVE ACTION ON HB 550

Motion: REP. JENT moved that HB 550 DO PASS.

Discussion: REP. BECKER asked for a review. Ms. Heffelfinger said it relates to fire districts currently under the 30-year PERS retirement with disability benefit. It allows rural fire

departments to opt in. They have to have an election to move to Fire Fighters Unified System (FURS). If they are under PERS, they can buy into FURS; all new hires would be in FURS. FURS gets 20-year retirement plus better disability benefit; all would be in one system. On the debit side, employers must pay in more (local governments) and employees share increases also. The state part from the general fund also increases. Part of the fire insurance premium (not Fire Marshall's tax) goes into a special revenue account. It does divert money from the general fund.

{Tape: 1; Side: B; Approx. Time Counter: 3.3 - 6.9}

REP. HURWITZ asked if homeland security might pick up the funding. **Ms. Heffelfinger** said none of the federal grants relate to this. **REP. ROBERTS** said it is a fairness issue. **REP. JENT** said only paid firefighters are covered, not volunteers. **REP. BROWN** said it is not the time to do this. Revenues equate to taxes. **REP. DICKENSON** asked if anyone is getting calls on this. The fiscal note increases the county's share from 6.5% to 14.3%. The need is there but it is not certain whether they're willing to pay. **Ms. Heffelfinger** clarified that the employer must elect to do this; it allows, but does not mandate.

{Tape: 1; Side: B; Approx. Time Counter: 6.9 - 14}

REP. B. OLSON asked **REP. WAGMAN**, a firefighter, for his view. **REP. WAGMAN** said it is similar to the bed tax issue. The tax used to be earmarked for firefighters retirement, but got used for other uses; now this brings it back to the original intent. **REP. ALAN OLSON** said it's similar to the MHP not buying into social security; they could if they desired it, but it would have a major fiscal impact. If this session lets this go, down the road it will cost more. **REP. BROWN** believed it's a good idea, but not now. The tax is on all Montanans versus the bed tax is mostly from visitors.

REP. LEHMAN noted the key factor is that the decision is up to the employer. **Ms. Heffelfinger** said automatic state costs get triggered by their election to participate. **REP. LEHMAN** agreed. **REP. A OLSON** said the problem will not get better. Local government is under a burden and will not allow it to occur. If they pass this now, they would provide the vehicle to the counties, then the bill will not come back next Session. **REP. YOUNKIN** said if no one opts in, the fiscal note would be zero. **CHAIRMAN BARRETT** doesn't see this bill going to Appropriations Committee.

REP. HURWITZ said all fire insurance premiums are up. He asked, "Does that mean the fund has more money now? If we give this

option, more firefighters may be hired, lowering insurance rates." **REP. YOUNKIN** replied that the 2.5% premium tax is based on what the company charges consumers. Huge pay outs to casualty carriers because of 9-11-01 ate up any increased revenues. She said the fiscal note is speculation; they don't know if employers would opt in. **CHAIRMAN BARRETT** asked for the motion to be withdrawn, so the members could call their counties and insurance agents and get information.

Motion was withdrawn.

Discussion:

REP. WAGMAN wanted to see "a certain buy-in by employers," in this bill similar to the counties, who were behind the detention officers' retirement buy-in. If firefighters have more than five years in PERS, they would probably stay in. All new hires would be FURS. The insurance premium depends partly on proximity to a fire department. **REP. LEHMAN** said over the long run, as more employers opt in, the cost increases. **REP. BROWN** asked for a graph of the last five years. **Ms. Heffelfinger** said she will do that. **REP. DICKENSON** asked if they talked about SB 61. **REP. WAGMAN** asked Ms. Heffelfinger to check on the National Guard's retirement, if they had federal money. **REP. DICKENSON** asked if they don't pass this, whether Cascade County would be affected. **Ms. Heffelfinger** said that's in another bill, and she will coordinate it with this one.

ADJOURNMENT

Adjournment: 10:25 A.M.

REP. DEBBY BARRETT, Chairman

JOAN REIMAN, Secretary

DB/JR

EXHIBIT (sth52aad)